

A Provincial

# Overview

School Board/Teacher

Collective Bargaining

1983-84

Vol. 5 No. 1

Education Relations Commission

September 1983

## STATISTICAL REPORTING MOVES TO 1983-84

Readers please note that statistical data in this issue pertain to agreements in effect for the 1983-84 school year. As of date of publication the Commission has analysed grid salary data for 97 jurisdictions and other agreement data for 53 situations.

### 1982-83 UPDATE

**Good Faith Bargaining:** Grey Secondary and Dufferin Secondary Teachers have withdrawn their bad faith bargaining charges. The remaining applications - Bruce Sec. (2 applications), East York Sec., Red Lake Sec., and Kent Sec. - are pending the results of the judicial review application filed by the Durham Board of Education, in regard to the ERC's determination that it had jurisdiction to hear a bad faith charge filed by the Secondary Teachers employed by the Board.

### ERC PLANS WORKSHOP ON GRIEVANCE MEDIATION

Grievance mediation is a process which is designed to resolve disputes arising out of collective agreements. It is not a substitute for arbitration but rather an attempt to resolve a grievance, through the use of a mediator, prior to going to arbitration. The process involves the appointment by the Commission of a third party neutral after the internal grievance procedure has been exhausted. The mediator works with the parties to effect a settlement of the dispute. The discussions under this process are confidential and cannot be used in any arbitration proceedings if the grievance is not settled at the mediation stage.

The Education Relations Commission, in its mandate to foster harmonious relations between school boards and teachers, instituted a Grievance Mediation program in 1980. The program provides experienced third party neutrals, paid by the Commission, to assist parties in resolving a grievance. An appointment is made only in situations where both the school board and the teacher(s) request such assistance. Since 1980, a number of parties have utilized this process and it has proven to be very effective.

The Commission is planning a Grievance Mediation Workshop in order to further expose the parties to the process. If the response is good, a series of regional workshops may be scheduled.

The purposes of the workshop will be to:

- gain a better understanding of the basic concepts of grievance mediation;
- analyse critically the pros and cons of using grievance mediation;
- share the experiences of those who have used the process; and
- share the experiences of those third party neutrals who have assisted in the resolution of grievances.

A tentative agenda and a Needs Assessment Questionnaire will be mailed shortly to school boards and branch affiliates. Further enquiries should be directed to V. Bill Pililotis, Director of Field Services.

## PUBLICATIONS AVAILABLE

a) Included in this mailing:

- 1982-83 Individual Summaries: 7th Update
- 1983-84 Individual Summaries: 2nd Update
- Grievance Arbitration, September 1983

b) Available on request:

- Clause File # 24: Surplus/Redundancy Provisions Related to Positions of Responsibility, 1981-82

Based upon 200 agreements in effect during the 1981-82 school year, this publication examines some of the details regarding surplus/redundancy procedures for positions of responsibility. Agreement provisions containing clauses which totally or partially exempt those in positions of responsibility from redundancy considerations as well as those which provide separate and distinct procedures are considered. The document contains a summary analysis as well as verbatim replication of the clauses.

- Fact Finding, 1982-83: Issues and Recommendations (English only)

This publication is based on an analysis of the forty-eight (48) fact finder reports which were released to the public during the 1982-83 round of bargaining. Care has been taken to provide a fair and full representation of both the issues and arguments advanced by the parties, and the positions and recommendations adopted by the fact finders. Wherever possible, the document also links up the positions taken by fact finders with those taken by arbitrators in interest disputes on the same issues, and to data and various other reports which may be related to the topic under consideration.

### ERC CHAIRMAN ELECTED TO OFFICES OF INDUSTRIAL RELATIONS ORGANIZATIONS

Dr. Bryan Downie, Chairman of the Education Relations Commission, has been elected as President-Elect of the Canadian Industrial Relations Association at its Annual Assembly in June, in 1984-85, he will serve as President of the Association. The CIRA is a member of the Learned Societies and its Assembly was held at the 1983 Learned Societies Conference in Vancouver. Professor Downie was also elected as a member of the Board of Directors of the Social Science Federation of Canada for a three-year term and as Canadian Director and a member of the Board of Directors of the Society of Professionals in Dispute Resolution (SPIDR). The latter is an organization of third party neutrals with headquarters in Washington, D.C.

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## Trends in Just Cause Provisions

The Provincial Overview for June 1983 reported that 73% of the Elementary, 81% of the Secondary, and 88% of the RCSS agreements analysed for 1982-83 were found to have a discipline/just cause provision. Depending upon agreement type, the frequency of such clauses has increased by 20-26% over the last 5 years.

A more detailed examination of just cause clauses is presented in this Overview, based upon 70 Elementary, 55 Secondary and 46 RCSS 1982-83 agreements, representing 85.5% of the 200 possible agreements for the year.

Analysis of these agreements indicates a significant variation in their scope of application. Approximately one-half (50.9%) of the agreements prohibit school boards from disciplining teachers without just cause; 43.9% require just cause in the case of discharge or termination; 35.7% deem it necessary for demotions; 14.0% make it a requirement for transfers and 5.3% stipulate just cause in the case of withholding salary increments.

A further breakdown is shown in the table below.

Area of Application	Elem. %	Elem. n	Sec. %	Sec. n	RCSS %	RCSS n	Total %	Total n
Discipline	41.4	29	49.1	27	67.4	31	50.9	87
Discharge	35.7	25	50.9	28	47.8	22	43.9	75
Demotion	22.9	16	38.2	21	52.2	24	35.7	61
Transfer	17.1	12	10.9	6	13.0	6	14.0	24
Increment	11.4	8	1.4	1	0.0	-	5.3	9
Agreements	100.0	70	100.0	55	100.0	46	100.0	171

Note: Column percentages will not total 100.0%.

Just cause clauses specific to positions of responsibility have also begun to appear in collective agreements. For example, a secondary agreement contains the following provision:

"Should the board wish to relieve a teacher from the teacher's Position of Responsibility notice in writing, showing cause, shall be given to the teacher prior to May 1 of the preceding year."

Similar types of provisions were found in 2 Elementary, 4 Secondary and 3 RCSS agreements.

Of the 171 agreements analyzed for 1982-83, 20 allowed for the substitution of disciplinary penalties. An example:

"In the final and binding settlement of a grievance arising from a disciplinary action involving re-assignment, demotion or dis-

missal of a teacher, the conferring Parties or an Arbitrator or a Board of Arbitration may vary the disciplinary action and restate the teacher on such terms as they think fit and which they consider to be just and equitable."

Of the agreements analyzed, three made provision for the loss of a teacher's seniority in the event of dismissal for cause. An additional 20 agreements contained clauses which gave the school board the right to withhold payment of the retirement gratuity in the case where a teacher was discharged for just cause, or who resigned in order to avoid dismissal for cause. Eight agreements required a teacher who had been granted a sabbatical leave, but dismissed for just cause prior to completing the minimum service requirement following return from sabbatical, to repay (on a pro-rated basis) any monies owing the school board for each of the required years of service not fulfilled.

Thirty-six percent (36.2%) of the clauses which dealt with discharge, discipline, transfers, demotions and withholding of salary increments were restricted to teachers on permanent contract; 49.5% applied to all teachers; 14.3% were not specific. In addition, several agreements defined situations which could not be grieved for just cause. These included: a) termination by a school board of a position of responsibility after a specified term or training period (5 RCSS agreements); b) dismissal or disciplinary action for denominational cause (3 RCSS agreements); c) transfers (4 RCSS agreements); and d) evaluation reports (1 RCSS agreement).

Although, as mentioned above, three RCSS agreements in 1982-83 denied teachers the right to grieve in situations involving denominational cause, a few agreements contain provisions which try to strike a balance between the denominational rights and privileges of separate school boards and the needs of teachers to seek some avenue of appeal in the event of dismissal or discipline. An example:

"Where the matter concerned is of a denominational nature, the Board and the Branch Affiliate shall, prior to discipline or discharge, attempt to resolve the matter on a personal basis through professional and/or religious counselling. The assistance of the Bishop of the Diocese, or his designate, may be invited at this time. However, in the event of a grievance pertaining to discipline or discharge on denominational grounds, the grievance shall commence at Step 2, part b). Should the grievance proceed to arbitration, there shall be appointed a single arbitrator who shall be the Bishop of the Diocese or his designate. His decision shall be final and binding."

Finally, 14 agreements contain provisions prohibiting a claim of unjust dismissal or termination from being the subject for grievance and/or arbitration. Seventeen agreements specify that a grievor can request a Board of Reference under the Education Act, or proceed through the grievance procedure, but not both.

TABLE 3 Method of Category Placement-Qualifications Evaluation Council of Ontario (QECCO)

QECCO Programme*	Elem. No.	%	RCSS No.	%
QECCO 2	1	4.3	-	0.0
QECCO 2 + 3	1	4.3	-	0.0
QECCO 2 + 4	1	4.3	-	0.0
QECCO 3	18	78.5	13	81.3
QECCO 3 with \$ Qual.	-	0.0	-	0.0
QECCO 4	1	4.3	2	12.5
QECCO 4 with \$ Qual.	-	0.0	-	0.0
Outlined in Agree.	1	4.3	1	6.2
Agreements	23	100.0	16	100.0

\*May be supplemented through modifications and/or exemptions or may be specific QECCO Programme.

TABLE 4 Method of Category Placement-Ontario Secondary School Teachers' Federation (OSSTF)

OSSTF Certification*	Sec. No.	%
OSSTF 5	-	0.0
OSSTF 6	14	100.0
Not Specified	-	0.0
Agreements	14	100.0

\*May be supplemented through modifications and/or exemptions.

TABLE 5 Method of Payment of Principals' Salaries

Method of Payment	Elem. No.	%	Sec. No.	%	RCSS No.	%
Grid + Allowance	6	26.1	-	0.0	11	68.7
Criteria:						
No Diff.	-	-	-	-	2	-
Sch. Type/Size	4	-	-	-	4	-
Sch. Type/Size and Exp.	2	-	-	-	2	-
Sch. Type/Size and Qual.	-	-	-	-	2	-
Sch. Type/Size, Exp. and Qual.	-	-	-	-	-	-
Other	-	-	-	-	1	-
Separate Grid	15	65.2	14	100.0	4	25.0
Criteria:						
Yrs. Exp.	9	-	12	-	1	-
Exp. and Qual.	1	-	-	-	1	-
Sch. Type/Size and Exp.	4	-	2	-	-	-
Sch. Type/Size, Exp. and Qual.	1	-	-	-	2	-
Other	-	-	-	-	-	-
Tch. and Sep. Grids	2	8.7	-	0.0	1	6.3
Flat \$ Amount	-	0.0	-	0.0	-	0.0
Agreements	23	100.0	14	100.0	16	100.0

TABLE 6 Cost of Living (COL) Provision

COL Provision	Elem. No.	%	Sec. No.	%	RCSS No.	%
All Agreements	-	0.0	1	7.1	-	0.0
Allowance Only	-	-	-	-	-	-
Fold-in Only	-	-	-	-	-	-
Allow. and Fold-in	-	-	1	-	-	-
1 Yr or 1st Yr of Multi-Yr Agreements	-	-	-	-	-	-
No Provision	23	100.0	13	92.9	16	100.0
Agreements	23	100.0	14	100.0	16	100.0

\*Adjustment to salary grid.

TABLE 7 Master's Degree Allowance

Degree Allowance	Elem. No.	%	Sec. No.	%	RCSS No.	%
Less than \$500	1	4.3	1	7.1	-	0.0
\$500-549	1	4.3	2	14.4	1	6.5
\$550-599	1	4.3	-	0.0	1	6.5
\$600-649	2	8.7	1	7.1	1	6.5
\$650-699	-	0.0	1	7.1	-	0.0
\$700-749	6	26.2	4	28.6	-	0.0
\$750-899	3	13.0	4	28.6	1	6.5
\$900 or more	1	4.3	1	7.1	-	0.0
No Allowance	8	34.9	-	0.0	12	75.0
Agreements	23	100.0	14	100.0	16	100.0

TABLE 8 Method of Payment of Vice-Principals' Salaries

Method of Payment	Elem. No.	%	Sec. No.	%	RCSS No.	%
Grid + Allowance	14	60.9	1	7.1	13	81.3
Criteria:						
No Diff.	8	-	1	-	6	-
Yrs. of Exp.	4	-	-	-	-	-
Sch. Type/Size	2	-	-	-	4	-
Sch. Type/Size and Exp.	-	-	-	-	2	-
Sch. Type/Size and Qual.	-	-	-	-	-	-
Other	-	-	-	-	1	-
Separate Grid	7	30.4	11	78.6	-	0.0
Criteria:						
Yrs. Exp.	7	-	11	-	-	-
Yrs. Exp. and Qual.	-	-	-	-	-	-
Tch. and Sep. Grids	-	0.0	-	0.0	-	0.0
Flat \$ Amount	-	0.0	-	0.0	-	0.0
Not Specified	2	8.7	2	14.3	3	18.8
Agreements	23	100.0	14	100.0	16	100.0

TABLE 9 Board Subsidization of Employee Benefit Plans

Board Subsid. (%)	Elem. No.	%	Sec. No.	%	RCSS No.	%
a) OHIP						
0*	-	0.0	-	0.0	1	6.5
60	1	4.3	1	7.1	-	0.0
75	8	34.9	4	28.6	1	6.5
80	2	8.7	1	7.1	1	6.5
85	2	8.7	-	0.0	5	31.4
90, 91	2	8.7	2	14.3	4	31.4
95	1	4.3	-	0.0	-	0.0
100	7	30.4	6	42.9	3	18.7
Flat \$ Amt.	-	0.0	-	0.0	-	0.0
b) Extended Health						
75	4	17.4	1	7.1	1	6.6
80	2	8.7	1	7.1	2	12.6
85	2	8.7	-	0.0	5	31.2
90	2	8.7	3	21.5	4	25.0
95	1	4.3	-	0.0	-	0.0
100	9	39.2	8	57.2	4	25.0
Flat \$ Amt.	-	0.0	-	0.0	-	0.0
No Plan	3	13.0	1	7.1	1	6.6
c) Dental						
0*	1	4.3	-	0.0	-	0.0
50	6	26.0	2	14.3	-	0.0
60	-	0.0	-	0.0	1	6.4
70	-	0.0	-	0.0	1	6.4
75	3	13.1	2	14.3	-	0.0
80	2	8.7	1	7.1	2	12.4
85	3	13.1	1	7.1	6	37.4
90	2	8.7	3	21.4	2	12.4
100	2	8.7	4	28.7	4	25.0
Flat \$ Amt.	1	4.3	-	0.0	-	0.0
No Plan	3	13.1	1	7.1	-	0.0
d) Long-Term Disability						
0*	12	52.3	7	50.0	10	62.4
60	1	4.3	-	0.0	-	0.0
70	1	4.3	-	0.0	1	6.4
75	1	4.3	-	0.0	-	0.0
80	-	0.0	1	7.1	-	0.0
85	-	0.0	-	0.0	2	12.4
90	1	4.3	1	7.1	-	0.0
100	1	4.3	3	21.6	2	12.4
Flat \$ Amt.	-	0.0	1	7.1	-	0.0
No Plan	6	26.2	1	7.1	1	6.4
e) Group Life Insurance						
Up to 50	1	4.3	1	7.1	-	0.0
67	2	8.7	1	7.1	-	0.0
75	4	17.4	1	7.1	-	0.0
80, 85	1	4.3	1	7.1	8	50.0
90, 95	3	13.0	1	7.1	4	25.0
100	12	52.3	9	64.5	4	25.0
Flat \$ Amt.	-	0.0	-	0.0	-	0.0
f) Limitation on Employee Benefit Subsidy	19	82.6	9	64.5	10	62.5
Agreements	23	100.0	14	100.0	16	100.0

\*Plan exists; Board does not contribute towards payment of premium.

TABLE 10 Retirement Gratuity

Retirement Gratuity	Elem. No.	%	Sec. No.	%	RCSS No.	%
Provision	23	100.0	13	92.9	14	87.5
Payment Crit.:						
Superann. Only	10		5		9	
Bd. Discretion	3		2		-	
Leaving Prof.	3		2		4	
Spec. Age.	6		5		2	
Health	10		6		2	
Other	1		-		-	
Min. Ser. Req'd:						
1 Yr. Unspec., No Min.	8		3		1	
5-7	3		2		2	
10-12	12		8		10	
15-20	-		-		1	
Payable to Estate	23		13		12	
Death Benefit	-		-		2	
Phasing Out	5		1		3	
Other Limitation	6		2		5	
No Provision	-	0.0	1	7.1	2	12.5
Agreements	23	100.0	14	100.0	16	100.0

\*Not mutually exclusive.

TABLE 11 Cumulative Sick Leave (C.S.L.)\*

C.S.L.	Elem. No.	%	Sec. No.	%	RCSS No.	%
Provision	23	100.0	14	100.0	16	100.0
Max. Days Acc.:						
200-219	4		5		3	
220-239	3		1		5	
240-299	4		3		6	
300, 400	1		1		1	
No Max.	10		2		-	
Varies	1		2		1	
No Accum.	-		-		1	
No Provision	-	0.0	-	0.0	-	0.0
Agreements	23	100.0	14	100.0	16	100.0

\*For sick leave purposes.

TABLE 12 Extended Leave of Absence

Leave of Absence	Elem. No.	%	Sec. No.	%	RCSS No.	%
Provision	18	78.3	8	57.1	9	56.2
Min. Serv. Req'd:						
2, 3	1		2		-	
5, 6	1		-		2	
Not Specified	16		6		7	
No Provision	5	21.7	6	42.9	7	43.8
Agreements	23	100.0	14	100.0	16	100.0



TABLE 19 Surplus/Redundancy

Surplus/Redundancy	Elem. No.	%	Sec. No.	%	RCSS No.	%
Provision	22	95.7	14	100.0	16	100.0
Factors Considered:*						
Seniority:	22		14		16	
Consec. Bd. Exp.	18		12		12	
Total Bd. Exp.	22		13		9	
Total Exp.	22		13		14	
Other	20		12		4	
Type of Contract	19		10		11	
Qualifications	22		14		16	
Effectiveness	5		4		6	
Board Discret.	22		14		16	
Other	1		-		3	
Accommodation:*						
Priority Transfer	22		14		16	
Lim. Displace.	7		5		1	
Unlim. Displace.	4		5		3	
Priority Reloc.	6		5		1	
Options in Lieu of Layoff:*						
Perm. Supply	12		4		-	
Retraining	-		2		-	
Sabbatical	-		1		-	
Spec. Assign.	1		1		1	
Br. Aff.-	-		1		-	
Spons. Plan	-		1		-	
Leave of Abs.	2		3		-	
Def. Salary**	15		9		11	
Red. Teaching	7		7		4	
Options at Layoff:*						
Priority Summer/ Occ./Night School	1		3		-	
Priority Supply	6		5		4	
Priority Recall	19		13		16	
Separation Allow.	10		8		1	
Early Retire.**	1		5		-	
Other options	1		1		-	
No Provision	1	4.3	-	0.0	-	0.0
Agreements	23	100.0	14	100.0	16	100.0

\*Not mutually exclusive.

\*\*Not necessarily in Surplus/Redundancy Provision

TABLE 20 Vacancy/Transfer

Vacancy/Transfer	Elem. No.	%	Sec. No.	%	RCSS No.	%
Vacancy						
Teachers:	12	52.2	5	35.7	8	50.0
Adv. Int. Posting	6		2		4	
Seniority Consid.	7		1		3	
Pos. of Resp.:	13	56.5	6	42.9	10	62.5
Adv. Int. Posting	6		2		6	
Seniority Consid.	7		2		5	
Transfer						
Teacher-Req.	11	47.8	9	64.3	12	75.0
Board-Initiated	20	87.0	12	85.7	14	87.5
Reloc. Allow.	2		3		4	
New Positions	17	73.9	7	50.0	12	75.0
Teacher/Bd. Discussion	12		7		7	
Agreements	23	100.0	14	100.0	16	100.0

TABLE 21 Number and Term of Agreements Included in this Overview

Agreements	Elem. (1) (2)	Sec. (1) (2)	RCSS (1) (2)
Total Possible	76 76	76 76	48 48
Included in Summary	41 23	30 14	26 16
Term:			
1-Yr	25 11	13 6	19 9
1st Yr of 2-Yr	- -	- -	- -
2nd Yr of 2-Yr	16 12	16 7	7 7
1st Yr of 3-Yr	- -	- -	- -
2nd Yr of 3-Yr	- -	- -	- -
3rd Yr of 3-Yr	- -	1 1	- -

(1) Salary grid data only (2) All data

TABLE 22 List of Agreements Included in the Overview by Agreement Code Number

Elementary				Secondary				R.C.S.S.			
001#	013#		052#	065#	078#		129#*	155#	167#		191#
003#*	014#		053#	066#*	079#	091#	117#	156#	168#	180#*	
004#		028#		067#				157#*	169#	181#	193#
005#	016#		055#*		081#*				170#		
006#	018#	030#*	044#	057#	070#*	094#*		121#	134#	147#*	
007#			046#*	058#*	083#	095#	109#	122#	136#*	149#*	
			059#*					123#*	137#*		
009#	021#*	034#*	047#	074#*	086#*	099#	111#*	124#	137#*	149#*	
	022#	035#*	048#*	075#*	087#*	100#*	112#*	151#	163#	175#*	
	023#		062#			101#*	113#	152#*			
012#	024#*		063#*					153#*			
			051#	064#							

\*Teacher salary grid data only. #Additions.